

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SUSAN BROWN,

Defendant-Appellant.

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UNPUBLISHED

February 9, 2006

No. 258263

Wayne Circuit Court

LC No. 03-008075-01

Before: Donofrio, P.J., and Borrello and Davis, JJ.

PER CURIAM.

Defendant appeals as of right following her conviction of first-degree murder, MCL 750.316(1)(a). Pursuant to her conviction, defendant was sentenced to life imprisonment. Because we are not persuaded that any of the issues raised by defendant merit reversal of her conviction, we affirm.

Defendant and the victim were in the process of a divorce when this incident took place. According to defendant, the victim returned to the home and following a verbal dispute attempted to rape and kill her. Defendant who was thirty weeks pregnant at the time the offense occurred, claimed that she acted in self-defense when she stabbed her husband to death. In order to bolster her claim of self-defense, defendant sought an in camera review of the victim's psychiatric records. In her motion, defendant alleged that the victim's behavior had changed following their separation, however, defendant failed to indicate with any degree of specificity what the records might reveal other than a suggestion that "possibly" the victim had been diagnosed as bipolar. Defendant did state that the victim had been diagnosed as having codependent and passive-aggressive personality types, however defendant did not provide a basis for ascertaining whether these personality types related to a person's propensity for aggression. She proffered no example of prior aggressive behavior, either before, or after the separation.

A trial court's decision regarding a discovery request is reviewed for an abuse of discretion. *People v Fink*, 456 Mich 449, 458; 574 NW2d 28 (1998). An abuse of discretion will be found only if an unprejudiced person, considering the facts on which the trial court acted, would say that there was no justification or excuse for the ruling made. *People v Murray*, 234 Mich App 46, 52; 593 NW2d 690 (1999).

Here, defendant did not allege facts sufficient to support a belief that there was a reasonable possibility that the decedent's psychiatric records would contain information that the

decedent had aggressive tendencies. The trial court could not infer that the decedent was aggressive simply because the “passive-aggressive” trait contains the word “aggressive.” Because defendant did not allege facts sufficient to support a belief that there was a reasonable possibility that the decedent’s psychiatric records would contain information that the decedent had aggressive tendencies, the trial court did not abuse its discretion in denying defendant’s request for an in camera review of the records. *People v Stanaway*, 446 Mich 643, 681; 521 NW2d 557 (1994).

Defendant also argues that the trial court abused its discretion by excluding defendant’s proposed expert testimony. This Court reviews the admissibility of expert testimony for an abuse of discretion. *People v Phillips*, 246 Mich App 201, 203; 632 NW2d 154 (2001). MRE 702 provides that expert witness testimony is proper if “the court determines that recognized scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue.” In determining whether the testimony would aid the trier of fact, it is helpful to apply the common sense inquiry whether an untrained layman would be qualified to determine intelligently and to the best possible degree the particular issue without enlightenment from experts. *People v Smith*, 425 Mich 98, 106; 387 NW2d 814 (1986).

We conclude that the “expert” testimony of Dr. Stone, defendant’s obstetrician, regarding defendant’s nonviolent character, was unnecessary. Had defendant wanted Dr. Stone to testify about her character, she could have done so without qualifying him as an expert, presuming the testimony was otherwise admissible. MRE 803(21). The other reason defendant offered Dr. Stone’s testimony was to show how her pregnancy and gestational diabetes affected her emotional state. Defendant testified about her state of mind at the time of the offense. Dr. Stone’s testimony would only have provided a scientific basis for why pregnant women have mood swings and are particularly affected by stress. We do not believe that the jury needed an expert to assist them in understanding defendant’s testimony. A layperson is capable of understanding a parent’s desire to protect an unborn child, and understanding that a woman’s pregnancy and its surrounding circumstances affect her emotional state. An expert was not needed to explain to the jury how these circumstances could have led defendant to act in either self-defense or kill in the heat of passion, a requisite showing for voluntary manslaughter.<sup>1</sup> Therefore, the trial court did not abuse its discretion by excluding Dr. Stone’s proposed testimony.

Affirmed.

/s/ Pat M. Donofrio  
/s/ Stephen L. Borrello  
/s/ Alton T. Davis

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<sup>1</sup> The jury was permitted to consider, but rejected, the lesser offense of manslaughter.